

Representative Michael T. Morley proposes the following substitute bill:

FLUORINE COST REQUIREMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill modifies provisions governing the addition of fluorine to local water systems by requiring cost estimates and by authorizing citizens to revoke approval for the addition of fluorine when actual estimated costs exceed the cost estimates by a certain amount.

Highlighted Provisions:

This bill:

▸ requires that local governments adopt estimates about the cost of adding fluorine to a water system before and after an election to determine whether or not to add fluorine is held;

16a **Ĥ** ▸ **REQUIRES THAT THE GOVERNING BODY OF A LOCAL GOVERNMENT INFORM**
16b **WATER SYSTEMS WITHIN ITS JURISDICTION THAT A PETITION TO ADD FLUORINE IS BEING**
16c **CIRCULATED;**

16d ▸ **REQUIRES THE GOVERNING BODY TO CONSTITUTE A COMMITTEE TO DEVELOP**
16e **RECOMMENDED COST ESTIMATES, AND DEFINES THE MEMBERSHIP AND DUTIES OF THE**
16f **COMMITTEE; ĥ**

▸ when the final estimate of the cost of adding fluorine to the water system exceeds the original cost estimate by more than 25%, authorizes the local government to cancel the decision to add fluorine to the water system, resubmit the question of adding fluorine to the water system to the voters, or inform the voters of their right to seek an initiative petition cancelling the decision to add fluorine to the water system **Ĥ UNLESS CERTAIN CONDITIONS ARE MET ĥ** ; and

▸ makes technical corrections.

Monies Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **19-4-111**, as last amended by Chapter 185, Laws of Utah 2003

31 **19-4-111.1**, as enacted by Chapter 16, Laws of Utah 2002

32 **19-4-111.2**, as enacted by Chapter 15, Laws of Utah 2002



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **19-4-111** is amended to read:

36 **19-4-111. Fluorine added to or removed from water -- Election required.**

37 (1) As used in this section:

38 (a) (i) "Final total cost estimate" means the estimated one-time and on-going
39 expenditures that must be made to a water system in order to add fluorine.

40 (ii) "Final total cost estimate" includes any or all of the following if necessary to add
41 fluorine to a water system:

42 (A) the estimated cost of constructing chemical feed stations or other facilities to add
43 fluorine at each drinking water treatment plant;

44 (B) the estimated cost of constructing chemical feed stations or facilities to add
45 fluorine at the water source, including wells;

46 (C) the estimated cost of constructing chemical feed stations or facilities to add
47 fluorine at each wholesale line; and

48 (D) the estimated on-going operations and maintenance costs of adding fluorine to the
49 water system, including employee costs, electricity costs, and additional maintenance costs
50 resulting from the addition of fluorine.

51 (b) "Governing Body" means:

52 (i) the county legislative body, for county water systems;

53 (ii) the municipal legislative body, for municipal water systems; or

54 (iii) the special district board, for special district water systems.

55 (c) (i) "Preliminary total cost estimate" means the estimated one-time and ongoing
56 expenditures that must be made to a water system in order to add fluorine based on available

57 information.

58 (ii) "Preliminary total cost estimate" includes any or all of the following if necessary to
59 add fluorine to a water system:

60 (A) the estimated cost of constructing chemical feed stations or other facilities to add
61 fluorine at each drinking water treatment plant;

62 (B) the estimated cost of constructing chemical feed stations or facilities to add
63 fluorine at the water source, including wells;

64 (C) the estimated cost of constructing chemical feed stations or facilities to add
65 fluorine at each wholesale line; and

66 (D) the estimated ongoing operations and maintenance costs of adding fluorine to the
67 water system, including employee costs, electricity costs, and additional maintenance costs
68 resulting from the addition of fluorine.

69 (d) "Removal" means ceasing to add fluorine to a public water supply after the addition
70 was previously approved by the voters of a political subdivision.

71 ~~[(1)]~~ (2) (a) Except as provided in Subsection 19-4-104(1)(a)(i), public water supplies,
72 whether state, county, municipal, or district, may not have fluorine or any of its derivatives or
73 compounds added to or removed from them without the approval of a majority of voters in an
74 election in the area affected.

75 (b) An election shall be held:

76 (i) upon the filing of ~~[an initiative]~~ a petition requesting the action [in accordance with
77 state law governing initiative petitions] that qualifies for the ballot using the procedures and
78 requirements of Title 20A, Chapter 7, Part 5, Local Initiatives - Procedures;

79 (ii) in the case of a municipal, special district, or county water system which is
80 functionally separate from any other water system, upon the passage of a resolution by the
81 ~~[legislative body or special district board]~~ governing body representing the affected voters,
82 submitting the question to the affected voters at a municipal general election; or

83 (iii) in a county of the first or second class, upon the passage of a resolution by the
84 county legislative body to place an opinion question relating to all public water systems within
85 the county, except as provided in Subsection ~~[(2)]~~ (4), on the ballot at a general election.

86 (3) (a) **H** WHENEVER AN APPLICATION FOR A PETITION REQUESTING THE ADDITION OF
86a FLUORINE TO A PUBLIC WATER SYSTEM IS FILED, THE GOVERNING BODY SHALL:

86b (i) GIVE NOTICE THAT THE PETITION IS BEING CIRCULATED TO EVERY WATER SYSTEM
86c THAT WOULD BE REQUIRED TO ADD FLUORINE UNDER THE PETITION; AND

86d (ii) DIRECT EACH WATER SYSTEM TO BEGIN DEVELOPING A PRELIMINARY TOTAL COST
86e ESTIMATE FOR THE WATER SYSTEM.

86f (b) **h** Within 30 working days after a petition seeking the addition of fluorine to a
87 public water system is declared qualified for the ballot, the sponsors of the petition shall file a

88 preliminary total cost estimate with the governing body.

88a ~~H~~ (c) (i) THE GOVERNING BODY SHALL REFER THE PRELIMINARY TOTAL COST ESTIMATE
 88b TO A THE FLUORINE COST REVIEW COMMITTEE CONSTITUTED AS REQUIRED IN SUBSECTION
 88c (3)(c)(ii).

88d (ii) THE GOVERNING BODY SHALL ESTABLISH A FLUORINE COST REVIEW COMMITTEE
 88e COMPOSED OF :

88f (A) A REPRESENTATIVE FROM EACH WATER SYSTEM THAT IS OR MAY BE AFFECTED BY
 88g THE PETITION WHO HAS EXPERIENCE IN THE WATER SYSTEM'S ACCOUNTING, FINANCE, AND
 88h PROCUREMENT SYSTEM AND WHO HAS AUTHORITY TO COMMIT THE WATER SYSTEM TO A
 88i PRELIMINARY COST ESTIMATE;

88j (B) A REPRESENTATIVE FROM THE GOVERNING BODY'S PLANNING ENTITY WHO SHALL
 88k SERVE AS CHAIR; AND

88l (C) A REPRESENTATIVE FROM THE COUNTY HEALTH DEPARTMENT.

88m (iii) THE FLUORINE COST REVIEW COMMITTEE SHALL:

88n (A) MEET AS OFTEN AS NECESSARY;

88o (B) REVIEW THE PRELIMINARY TOTAL COST ESTIMATE SUBMITTED BY THE PETITION
 88p SPONSORS;

88q (C) DEVELOP AND ADOPT A RECOMMENDED PRELIMINARY TOTAL COST ESTIMATE THAT
 88r REPRESENTS THE FLUORINE COST REVIEW COMMITTEE'S BEST ESTIMATE OF THE COST TO ADD
 88s FLUORINE TO ALL OF THE WATER SYSTEMS AFFECTED BY THE PETITION; AND

88t (D) SUBMIT THE RECOMMENDED PRELIMINARY TOTAL COST ESTIMATE TO THE
 88u GOVERNING BODY . ~~h~~

89 ~~H~~ [~~tb~~] (d) ~~h~~) (i) Whether the election to determine whether or not fluorine should be added
 89a to a
 90 public water system was triggered by petition or by the governing body, the governing body
 91 that has jurisdiction over the water system shall, no later than 45 calendar days before the date
 92 of the election ~~H~~ [~~;~~] :

92a (A) REVIEW THE RECOMMENDED PRELIMINARY TOTAL COST ESTIMATE RECEIVED FROM
 92b THE FLUORINE COST REVIEW COMMITTEE; AND

92c (B) ~~h~~ adopt ~~H~~ [~~a~~] THE OFFICIAL ~~h~~ preliminary total cost estimate that estimates the total
 92d cost of adding

93 fluorine to ~~H~~ ALL OF ~~h~~ the water ~~H~~ [~~system~~] SYSTEMS AFFECTED BY THE PETITION ~~h~~ .

94 (ii) If the governing body fails to adopt ~~H~~ [~~the~~] AN OFFICIAL ~~h~~ preliminary total cost
 94a estimate no later than
 95 45 calendar days before the date of the election, the preliminary total cost estimate submitted
 96 by the petition sponsors is considered adopted and becomes the official preliminary total cost
 97 estimate.

98 [~~2~~] (4) If a majority of voters on an opinion question under Subsection [~~1~~] (2)(b)(iii)

99 approve the addition of fluorine to or the removal of fluorine from the public water supplies
 100 within the county, the local health departments shall require the addition of fluorine to or the
 101 removal of fluorine from all public water supplies within that county other than those systems:

102 (a) that are functionally separate from any other public water systems in that county;
 103 and

104 (b) where a majority of the voters served by the public water system voted against the
 105 addition or removal of fluorine on the opinion question under Subsection [~~(1)~~] (2)(b)(iii).

106 (5) (a) ~~H~~ (i) IF THE VOTERS VOTE TO ADD FLUORINE TO ONE OR MORE WATER SYSTEMS,
 106a THE GOVERNING BODY SHALL DIRECT THE FLUORINE COST REVIEW COMMITTEE TO MEET TO
 106b DEVELOP A RECOMMENDED FINAL TOTAL COST ESTIMATE.

106c (ii) THE FLUORINE COST REVIEW COMMITTEE SHALL MEET AND:

106d (A) ADOPT A RECOMMENDED FINAL TOTAL COST ESTIMATE THAT REPRESENTS THE
 106e FLUORINE COST REVIEW COMMITTEE'S BEST ESTIMATE OF THE COST TO ADD FLUORINE TO ALL
 106f OF THE WATER SYSTEMS AFFECTED BY THE PETITION; AND

106g (D) SUBMIT THE RECOMMENDED FINAL TOTAL COST ESTIMATE TO THE GOVERNING
 106h BODY .

106i (b) ~~h~~ No later than 180 calendar days after the date of an election in which the voters
 107 vote to add fluorine to a water system, the governing body shall ~~H~~ :

107a (i) REVIEW THE RECOMMENDED FINAL TOTAL COST ESTIMATE RECEIVED FROM THE
 107b FLUORINE COST REVIEW COMMITTEE; AND

107c (ii) ~~h~~ adopt a final total cost
 108 estimate.

109 (b) If the final total cost estimate exceeds the preliminary total cost estimate by 25% or
 110 more, the governing body may, in a public meeting:

111 (i) direct that all efforts to add fluorine to the water be ceased immediately because of
 112 the increased cost;

113 (ii) direct that the question of whether or not to add fluorine to the water be submitted
 114 to the voters for a new vote because of the increased cost; or

115 (iii) inform the voters that they may file an initiative petition to cancel the decision to
 116 add fluorine to the water system.

117 [~~(3)~~] (6) Nothing contained in this section prohibits the addition of chlorine or other
 118 water purifying agents.

119 ~~[(4)]~~ (7) Any political subdivision ~~[which, prior to November 2, 1976,]~~ that decided to
120 and was adding fluorine or any of its derivatives or compounds to the drinking water before
121 December 31, 2003 is considered to have complied with ~~[Subsection (1)]~~ Subsections (2), (3),
122 and (5).

123 ~~[(5)]~~ (8) ~~[In]~~ Notwithstanding Subsection (5)(c), in an election held pursuant to
124 Subsections ~~[(1)]~~ (2)(b)(i), (ii), or (iii), where a majority of the voters approve the addition to or
125 removal of fluorine from the public water supplies, no election to consider removing fluorine
126 from or adding fluorine to the public water supplies shall be held for a period of four years
127 from the date of approval by the majority of voters beginning with elections held in November
128 2000.

129 ~~[(6) For purposes of this section, "removal" means ceasing to add fluorine to a public~~
130 ~~water supply, the addition having been previously approved by the voters of a political~~
131 ~~subdivision.]~~

132 Section 2. Section **19-4-111.1** is amended to read:

133 **19-4-111.1. Provision of fluoridated water -- Request of resident.**

134 A public water system in a county of the first or second class whose entire water
135 inventory is fluoridated may supply water to a residence or business in a municipality that is
136 located in two counties, one that has approved fluoridation and one that has not approved
137 fluoridation in accordance with ~~[Subsection]~~ Section 19-4-111~~[(1)]~~ if:

- 138 (1) the owner requests that the public water system supply water to the residence or
139 business;
- 140 (2) no reasonable alternative water supply exists; and
- 141 (3) the owner's request can be fulfilled without affecting other residences or businesses
142 in the municipality or county that has not approved fluoridation.

143 Section 3. Section **19-4-111.2** is amended to read:

144 **19-4-111.2. Provision of fluoridated water -- Emergency circumstances.**

145 (1) A public water system that is simultaneously supplying water to a municipality or
146 county that approved fluoridation in accordance with Section 19-4-111 and a municipality or
147 county that has not approved fluoridation may provide water from its fluoridated inventory to a
148 municipality or county that has not approved fluoridation if:

- 149 (a) as a result of a short-term emergency, the only water available is from the public

150 water system's fluoridated inventory;

151 (b) the public water system ceases providing fluoridated water to the municipality or
152 county that has not approved fluoridation in accordance with ~~[Subsection]~~ Section

153 19-4-111~~(1)~~ in a time consistent with repair times following best industrial practice; and

154 (c) where feasible provide prompt notice to the affected area.

155 (2) (a) A resident of an affected area that does not wish to receive fluoridated water
156 during an emergency may contact the public water system to have delivery of fluoridated water
157 to their residence or business terminated.

158 (b) The resident shall determine when to resume delivery of water and shall contact the
159 public water system to have delivery of water resumed.